

GAHC010109972024



THE GAUHATI HIGH COURT
(HIGH COURT OF ASSAM, NAGALAND, MIZORAM AND ARUNACHAL PRADESH)

Case No. : AB/1481/2024

BIKRAM DAS
S/O PARIMAL CHANDRA DAS, VILL- GOLAPARA WEST PART-III, P.S.-
ABHAYAPURI, DIST- BONGAIGAON, ASSAM

VERSUS

THE STATE OF ASSAM AND ANR
REPRESENTED BY THE PUBLIC PROSECUTOR, ASSAM

2:SANDHA BALA MANDAL
W/O RADHA CHARAN MANDAL
VILL- BAGMARA
P.S.-BIJNI
DIST-CHIRANG
ASSAM
PIN-78339

Advocate for the Petitioner : MR. N UDDIN, MS. A AKHTAR, MR S K CHHETRY

Advocate for the Respondent : PP, ASSAM, DR. P AGARWAL, Amicus Curiae, (R-2)

**BEFORE
HONOURABLE MRS. JUSTICE MITALI THAKURIA
ORDER**

20.09.2024

Heard Mr. N. Uddin, learned counsel for the petitioner. Also heard Mr. D. Das, the learned Additional Public Prosecutor representing the State respondent and Dr. P. Agarwal, learned Amicus Curiae, learned counsel for the respondent No.2.

This is an application filed under Section 438 of the Code of Criminal Procedure, 1973, praying for grant of pre-arrest bail to the accused/petitioner, who is apprehending arrest in connection with Bijni P.S. Case No. 57/2024, under Section 363 of the Indian Penal Code with added Section 4 of the POCSO Act.

The Case Diary has been received and I have perused the same.

It is submitted by the learned counsel for the petitioner, Mr. Uddin, that the petitioner is innocent and has not committed any offence as stated in the FIR. The petitioner contends that on the day of the incident, the alleged victim voluntarily came to his house and told him she wanted to marry him, or else she would commit suicide. The petitioner then inquired about the victim's age and learned that she had not yet attained marriageable age. In fact, the petitioner himself has also not attained marriageable age. He attempted to send her back home, and later, with no other option, he narrated the entire incident to his family members. Presently, the victim is with her parents. Furthermore, he submits that the petitioner is still ready and willing to co-operate with the

Investigating Officer in the further investigation of the case if he is granted the privilege of pre-arrest bail.

In this regard, Mr. Das, the learned Additional Public Prosecutor, has submitted that the case diary reveals that the petitioner and the victim had a love affairs, which has been recorded in the victim's statement, under Section 164 of the Cr.P.C.

On the other hand, Dr. Agarwal, the learned Amicus Curiae, has submitted that even if the matter is settled between the family members of the accused/petitioner and the victim, it cannot be considered a compromise between the parties in the context of POCSO. Accordingly, she raised an objection to the prayer made by the learned counsel for the petitioner.

Considering the submissions of learned counsels of both sides and also considering the nature of offence as well as the materials in the Case Diary specially the statement recorded under Section 164 of Cr.P.C., I find that custodial interrogation of the present accused/petitioner is not necessary in this case and therefore, I find it a fit case to grant the privilege of pre-arrest bail to the accused/petitioner.

Accordingly, it is provided that in the event of arrest of the accused/petitioners, namely, **Bikram Das**, in connection with Bijni P.S. Case No. 57/2024, under Section 363 of IPC with added Section 4 of the POCSO Act, he shall be enlarged on pre-arrest bail on his executing a bond of Rs. 20,000/- (Rupees twenty thousand) only with one surety of like amount to the satisfaction of the arresting authority, subject to the following conditions:

- (i) that the petitioner shall make himself available for interrogation by

the Investigating Officer within 7(seven) from today.

- (ii) that the petitioner shall not, directly or indirectly, make any inducement, threat or promise to any person acquainted with the facts of the case so as to dissuade him from disclosing such facts to the Court or to any police officer; and
- (iii) that the petitioner shall not leave the jurisdiction of the concerned jurisdictional Magistrate, without prior permission.

In terms of above, this anticipatory bail application stands disposed of.

The Case Diary be sent back.

JUDGE

Comparing Assistant